

Before the
Federal Communications Commission
Washington, D.C. 20554
OCT 28 10 05 AM '93

DISPATCHED BY MM Docket No. 92-246

In the Matter of

Amendment of Section 73.606(b) RM-8091
Table of Allotments,
TV Broadcast Stations.
(Ridgecrest, California)

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: October 6, 1993; Released: October 27, 1993

By the Assistant Chief, Allocations Branch:

1. At the request of Valley Public Television, Inc. ("petitioner"), licensee of noncommercial educational television Station KVPT, Channel *18, Fresno, California, the Commission has before it a *Notice of Proposed Rule Making*, 7 FCC Rcd 7164 (1992), requesting the substitution of Channel *41 for Channel *25 at Ridgecrest, or alternatively, the placement of a site restriction on Channel *25 at Ridgecrest to accommodate petitioner's application site for a new noncommercial educational television station on Channel *39 at Bakersfield, California (File No. BPET-900904KF).¹ Petitioner filed comments in support of the proposal affirming its intention to apply for Channel 39 at Bakersfield, if the request in the instant docket was granted. Opposing comments were filed by Community Television of Southern California, ("CTSC"), licensee on noncommercial educational television Station KCET, Channel *28, Los Angeles, California. Reply comments were filed by petitioner.

2. As indicated in the *Notice*, Channel *25 at Ridgecrest, California, an isolated community in the desert area of eastern California, was short-spaced to petitioner's proposed reference coordinates for its Bakersfield, California, application site for Channel *39. Petitioner contended that the substitution of Channel *41 in lieu of Channel *25 to Ridgecrest would eliminate the short-spacing. Petitioner further contended that the allotment of Channel *41 to Ridgecrest would maximize the efficient use of Channel *39 in Bakersfield by permitting operation of the channel

from petitioner's preferred site, releasing Channel *25 for use in another community and permitting the retention of an educational television channel allotment at Ridgecrest. Petitioner alleged that Channel *25 at Ridgecrest cannot currently be used because of the freeze instituted in light of the advanced television proceeding.² Petitioner pointed out that there had been no interest shown in Channel *25 since its allotment 25 years ago. Petitioner further stated that the allotment of Channel *41 to Ridgecrest posed no technical problems and would have no adverse effect on any other allotments or operating stations. Alternatively, petitioner maintained that Channel *25 could be retained at Ridgecrest with a site restriction that would clear petitioner's application site.

3. On June 18, 1993, the petitioner and CTSC filed a Joint Petition for Approval of Settlement regarding their applications for noncommercial educational television Channel *39 at Bakersfield, California in MM Docket No. 93-93. A joint supplement to the settlement agreement was also filed on July 15, 1993. The settlement agreement provided for, *inter alia*, (a) the dismissal of both applications, with prejudice; (b) the dismissal of petitioner's Petition for Reconsideration of the grant of CTSC's application (File No. BPTT-910503AY) for a new television translator station on Channel 67 Bakersfield, California; (c) the provision of noncommercial television service to Bakersfield by both parties on their respective translator facilities; and (d) various ancillary agreements between petitioner and CTSC, effective for a period of five years, defining the areas in which each party may operate translator or low power television facilities and limiting the retransmission of their respective signals. The agreement also prohibited the parties from applying for a full service station to operate on Channel *39 in Bakersfield for five years unless an independent third party files for such facility first. The settlement agreement was approved and granted, as amended, by the Administrative Law Judge. Accordingly, the parties' applications (File Nos. BPET-881012KE and BPET-900904KE) were dismissed, with prejudice. See *Memorandum Opinion and Order*, FCC 93M-480, released July 20, 1993. Therefore, in view of the action taken in Docket No. 93-93, it is not necessary to entertain petitioner's request in the instant docket. Accordingly, we will dismiss petitioner's proposal.³

4. IT IS ORDERED, That the Petition For Rule Making and Petition for Reconsideration filed by Valley Public Television, Inc., are moot and ARE DISMISSED.

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 634-6530.

¹ Petitioner's petition for rule making was initially dismissed by letter on the grounds that the Ridgecrest channel substitution had been proposed in the context of MM Docket 85-390. While the proposed substitution at Ridgecrest was not adopted, the proceeding remained pending due to the filing of an application for review. See Letter from Chief, Allocations Branch, to counsel for Valley (May 1, 1991). See also *Report and Order* in MM Docket No. 85-390, 2 FCC Rcd 5882 (1987). Petitioner filed a petition for reconsideration of the letter dismissal and again requested the initiation of a rule making proceeding. While petitioner's petition was pending, the Commission resolved MM

Docket 85-390. See *Memorandum Opinion and Order* (Ventura, California), MM Docket No. 85-251, 7 FCC Rcd 5601 (1992). In view of the above, petitioner's substitution request at Ridgecrest was subsequently entertained and a *Notice* was issued. We will dismiss petitioner's petition for reconsideration as moot at the termination of this proceeding.

² See *Advanced Television Systems and Their Impact on the Existing Television Service* in MM Docket 87-268, 52 Fed. Reg. 28346, published July 29, 1987.

³ Since petitioner's proposal is now moot, responsive pleadings thereto will not be discussed in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

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